

## November 2005 Litigation Report

To: Mayor Spehar & County Commissioners  
 From: Bob Shillinger, Asst. County Attorney  
 Date: November 14, 2005  
 cc: Tom Willi, County Administrator  
 Richard Collins, County Attorney

### Summary

	<u>Number of Cases</u>		
New cases filed against County	3	Airports	2
Cases closed since last report	0	Community Services	3
CAY Trial level cases <sup>i</sup>	38	Engineering	5
CAY Post Judgment cases	4	Growth Management	57
CAY Appeals	5	Miscellaneous <sup>ii</sup>	3
Potential cases to be filed	6	MCSO	7
Outside Counsel Cases	48	Personnel	4
Total Cases pending	78	Public Works	5
		Risk Management	4

New Cases	Page 2
Cases Closed	2
CAY Litigation Cases Trial Level	3
CAY Post Judgment Cases	8
CAY Appeals	9
Potential Cases	10
Outside Counsel Cases	12
Ferencik, Libanoff (Ira Libanoff)	12
Johnson, Anselmo, (Bruce Johnson & Michael Burke)	13
Morgan & Hendrick (Derek Howard)	16
Paul, Hastings (Bob Freilich)	20
Purdy, Jolly (Mike Stephson)	20
The Smith Law Firm (Wayne Smith)	21
Vernis & Bowling (Dirk Smits, Kerry Willis & Scott Black)	22
White & Smith (Tyson Smith & Steve Moore)	20

## **CASES FILED AGAINST THE COUNTY SINCE LAST MONTH'S REPORT**

### **Gap Properteies v. Monroe County 3D05-2413**

**Third DCA**                      **Judges: TBA**                      **Date Filed: 10/14/5**

Second tier certiorari appeal of denial of petition challenging County's plat approval rules for dockominiums, see CA K 04-1321 below.

#### **Growth Management/Planning**

**Current Status:**      County ordered to respond by Court.

**Next Activity:**      County's brief due 12/03/05.

**Billing to Date:**      None  
Vernis & Bowling handling appeal.

### **In re: Birch Telecom, Inc. 05-12237 PJW**

**U.S.Bnkcty.Delaware**                      **Judge: Walsh**                      **Date Filed: 8/12/05**

Bankruptcy action by pay phone vendor which claims it owes County \$4.15 for providing pay phones on County property.

#### **Administrative Services/Technical Services**

**Current Status:**      Claim deadline passed 11/4/05. County's interest \$4.15.

**Next Activity:**      None.

**Time:** .5                      **Costs:** 0.00

### **Troy, Daniel Scott v. Monroe County 3D 05-2419**

**Third DCA**                      **Judges: TBA**                      **Date Filed: 10/7/05**

Appeal of denial of writ of mandamus in CA K 05-856.

#### **Growth Management/Planning**

**Current Status:**      Preparing record.

**Next Activity:**      Troy's brief due 12/16/05

**Time:** .3                      **Costs:** 0.00

**CASES CLOSED SINCE LAST MONTH'S REPORT -- None**

**CAY LITIGATION – Trial Level**  
**See Outside Counsel Section for Cases being Handled Jointly**

**Collins, C. & Sum Air Services v. Monroe County, et al** **CAM-05-146**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 6/1/05**  
Declaratory judgment action regarding lease with FBO at Marathon Airport.  
**Airports.** Filed but not served.

**Current Status:** Awaiting service of complaint.

**Next Activity:** Once served, determine if outside counsel should be retained.

**Time:** 0.3 hours **Costs:** 0.00

**Cutaia, Thomas v. Monroe County, MCSO, Pretrial Services** **CAK-05-617**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/21/05**  
Complaint for unspecified damages. Mayor not served yet. **MCSO**

**Current Status:** Awaiting service.

**Next Activity:** Once served, determine if outside counsel should be retained.

**Time:** 0.6 hours **Costs:** 0.00

**Drewing, Janice v. James Roberts as County Administrator** **CAK-04-686**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/25/04**  
Mandamus action seeking hearing in personnel dispute between plaintiff and her supervisor Louis Latorre. **Community Services/Social Services/Personnel**

**Current Status:** Drewing appealed Circuit's denial of writ to Third DCA.

**Next Activity:** Stayed pending appeal.

**Time:** 20.0 hours **Costs:** 0.00

**EEOC v. Monroe County** **150-2005-03773**  
**EEOC – Miami** **Judge: N/A** **Date Filed: 9/7/05**  
Charge of disability discrimination filed by an employee.  
**Public Works/Personnel**

**Current Status:** Response filed by ACA Mercado.

**Next Activity:** Await response from EEOC.

**Time:** 15.5 hours **Costs:** 0.00

**Fed. Nat'l Mortg. Assn. v. M. Coleman, Monroe County, et al**      **CAK-05-171**  
**Circuit Court 16<sup>th</sup>**      **Judge: Jones**      **Date Filed: 2/18/05**

Mortgage foreclosure case where County holds an inferior interest to bank due to \$1,928.00 in **Article V liens**.

**Current Status:**      Motion's pending.

**Next Activity:**      11/30/05, hearing on objection to foreclosure sale, motion to rescind certificate of sale and motion to vacate final summary judgment.

**Time:** 2.9 hours      **Costs:** 0.00

**LaSalle Bank, N.A. v. Alexis & Jesus Victores & Monroe County CAP 05-373**  
**Circuit Court 16<sup>th</sup>**      **Judge: Garcia**      **Date Filed: 8/29/05**

Mortgage foreclosure action where County holds an inferior \$100.00 code enforcement lien. Mayor served September 8, 2005.

**Growth Management/Code Enforcement**

**Current Status:**      Answer filed.

**Next Activity:**      None.

**Time:** 0.9 hours      **Costs:**      0.00

**Monroe County v. R. Bernstein/Safe Harbor Marine Railway**      **CAK-05-732**  
**Circuit Court 16<sup>th</sup>**      **Judge: Miller**      **Date Filed: 7/26/05**

Code enforcement lien foreclosure. Over \$221,800.00.

**Growth Management/Code Enforcement**

**Current Status:**      Negotiations ongoing.

**Next Activity:**      DF given till 11/30/5 to file responsive pleading.

**Time:** 7.1 hours      **Costs:** \$576.00

**Monroe County v. Matthew Bonnett**      **CAK-05-911**  
**Circuit Court 16<sup>th</sup>**      **Judge: TBA**      **Date Filed: 9/9/5**

Code enforcement lien collection action authorized 10/17/04, \$78,000.      **PJM**

**Growth Management/Code Enforcement**

**Current Status:**      DF served 11/3/05.

**Next Activity:**      Defendant's answer due 11/28/05.

**Time:** 3.1 hours      **Costs:** \$295.00

**Monroe County v. Dirk W. Damrau** **CAP-05-667**  
**Circuit Court 16<sup>th</sup>** **Judge: Miller** **Date Filed: 7/11/05**  
Action to collect \$206,100.00 fine authorized by the BOCC 6/18/03.  
**Growth Management/Code Enforcement**

**Current Status:** Settled for \$4748.00 and check received.

**Next Activity:** Mayor to sign settlement agreement.

**Time:** 5.3 hours **Costs:** \$568.05

**Monroe County v. Mark Fraleigh** **CAP-03-647**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 12/8/03**  
Ejectment action against owner of structures located on County right-of-way.  
**Public Works/Roads and Bridges.**

**Current Status:** Settled, most of structures removed from right of way.

**Next Activity:** Dismiss after verify status of 2 remaining structures.

**Time:** 33.6 hours **Costs:** \$256.80.

**Monroe County v. Jack Hagopian** **CAP-03-529**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 10/1/03**  
Code enforcement collection action authorized by BOCC on 8/20/03. Fine was \$203,100.00 as of 9/30/03 and accruing at \$250.00 per day.  
**Growth Management/Code Enforcement**

**Current Status:** Discovery.

**Next Activity:** Re set mediation.

**Time:** 25.3 hours **Costs:** \$20.00

**Monroe County v. Dorothy Hough, et al** **CAP-05-160**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 4/6/05**  
Code enforcement collection action authorized by BOCC on 9/17/03. As of 9/25/03 lien valued at \$25,050.00 and accruing at \$50.00 per day.  
**Growth Management/Code Enforcement**

**Current Status:** BOCC rejected offer to settle for \$2,500. Now compliant

**Next Activity:** Discovery & negotiations.

**Time:** 9.6 hours **Costs:** \$596.00

**Monroe County v. James Jeanquenat** **CAP-05 317**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 7/18/05**  
Collection action authorized by BOCC on 4/21/04. Fine exceeds 136,100.00.  
**Growth Management/Code Enforcement**

**Current Status:** Motion for Dismiss filed.

**Next Activity:** Motion hearing TBA.

**Time:** 3.7 hours **Costs:** \$275.00

**Monroe County v. Key Largo Ocean Resorts Coop, Inc.** **CAP-96-260**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 5/20/96**  
Action to foreclose a code enforcement lien.  
**Growth Management/Code Enforcement**

**Current Status:** Development agreement application being reviewed.

**Next Activity:** Status report due with the Court 1/1/06.

**Time:** 41.0 hours **Costs:** \$340.00

**Monroe County v. Pedro Liz** **CAK-05-420**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 4/22/05**  
Collection action authorized by BOCC on 7/17/03; fines exceed \$816,300.00.  
**Growth Management/Code Enforcement**

**Current Status:** Default set aside.

**Next Activity:** Answer by DF due 11/21/05.

**Time:** 8.0 hours **Costs:** \$555.00

**Monroe County v. Arthur Mehr** **CAP-05-348**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 8/5/05**  
Code fine collection action. Fine exceeds \$42,000.00.  
**Growth Management/Code Enforcement**

**Current Status:** DF served answer 9/15/05.

**Next Activity:** Discovery due 11/21/05.

**Time:** 7.2 hours **Costs:** \$850.00.

**Monroe County v. Outland Properties** **CAP-05-400**

**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 9/9/5**

Collection action authorized by BOCC on 10/17/04. Fine over \$225,000.00.

**Growth Management/Code Enforcement** **PJM**

**Current Status:** Defendant served.

**Next Activity:** Discovery.

**Time:** 1.1 hours

**Costs:** 300.00

**Nunziante, Marilyn v. Monroe County** **CAK-04-1227**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 11/18/04**

Suit challenging Bayshore's rule requiring family members to subsidize residents.

**Community Services/Social Services**

**Current Status:** PL has been moved to nursing home due to declining health.

**Next Activity:** Discovery and/or settlement, TBA.

**Time:** 76.1 hours

**Costs:** 0.00

**Teal, Kimberly & Keith v. Michael Angel, Monroe County, et al** **CAM-04-404**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/16/04**

Declaratory judgment action by property owners seeking half of a road **PJM**

purportedly abandoned by County and then quitclaimed to City of Marathon.

**Public Works/Roads and Bridges**

**Current Status:** Discovery. Settlement negotiations ongoing.

**Next Activity:** County's motion to dismiss TBA pending negotiations.

**Time:** 9.4 hours

**Costs:** \$133.00

**Troy, Daniel Scott v. Monroe County** **CAK 05-856**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 8/24/05**

Mandamus action seeking after the fact building permits for structures erected on Cooks Island in violation of the County Code.

**Growth Management/Planning**

**Current Status:** On appeal in 3D 05-2419.

**Next Activity:** None while on appeal.

**Time:** 2.0 hours

**Costs:** 0.00

**Walgreens & Gadinsky v. Monroe County** **CAK-05-266**

**Circuit Court 16<sup>th</sup>** **Judge: Taylor** **Date Filed: 3/11/05**

Cert. review of DOAH order upholding 1/6 findings supporting denial of major conditional use application for Big Pine Walgreens.

**Growth Management/Planning**

**Current Status:** Negotiations ongoing.

**Next Activity:** Final hearing 1/30/06.

**Time:** 17.8 hours **Costs:** 0.00

**In re: Winn Dixie Stores, Inc.** **05-03817-3F1**

**U.S. Bankruptcy Ct., M.D.Fla.** **Judge: Jerry Funk** **Date Filed: 2/25/05**

Voluntary Chapter 11 reorganization case where County *might* have a claim against the estate.

**Current Status:** Could find no basis for filing proof of claim.

**Next Activity:** None needed.

**Time:** 0.9 hours **Costs:** 0.00

**CAY POST JUDGMENT CASES**

**Monroe County v. William L. Davis** **CAP-04-181**

**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 4/15/04**

Money judgment of **\$27,600.00** for unpaid code enforcement fines and costs.

**Growth Management/Code Enforcement**

**Current Status:** Final judgment of \$28,431.00 recorded w/ Dept. of State.

**Next Activity:** Collection.

**Time:** 6.2 hours **Costs:** \$56.00

**Monroe County v. Dan Gleason** **SCP-03-165**

**County Court (Sm. Claims)** **Judge: Ptomey** **Date Filed: 8/5/03**

Money judgment of **\$520.00** for unpaid code enforcement fines and costs.

**Growth Management/Code Enforcement**

**Current Status:** Final judgment recorded w/ Dept. of State.

**Next Activity:** Collection.

**Time:** 9.5 hours **Costs:** \$65.92



**Monroe County v. Lily Marks** **CAK-03-1152**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 10/2/03**  
Money judgment of \$795,270.00 for unpaid code enforcement fines and costs.  
**Growth Management/Code Enforcement**

**Current Status:** Final judgment entered for \$795,270.00 on 5/9/05.

**Next Activity:** Collection.

**Time:** 8.5 hours

**Costs:** \$55.00

**CAY APPEALS**

**Drewing, Janice v. Monroe County** **3D 04-3044**  
**Third DCA** **Judges: Levy, Ramirez & Rothenberg** **Date Filed: 11/29/04**  
Appeal of denial of writ of mandamus in personnel matter.  
**Community Services/Social Services/Personnel**

**Current Status:** County prevailed, trial court affirmed; mandate issued 10/14/05.

**Next Activity:** Close file if no certiorari petition filed by 11/15.

**Time:** 32.4 hours

**Costs:** \$15.00

**Eads, Barbara v. Monroe County** **CAP-03-117**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 2/27/03**  
Appeal of order finding the Lowe House to be in unsafe condition.  
**Growth Management/Code Enforcement**

**Current Status:** Appeal stayed pending application for variance and building permit.

**Next Activity:** None scheduled.

**Time:** 3.6 hours

**Costs:** 0.00

**Fuchs, Walburga v. Monroe County** **CAK-01-1251**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 10/5/01**

This is a code enforcement appeal of an OSTDS case.

**Growth Management/Code Enforcement**

**Current Status:** The County's brief filed; case reassigned to Judge Payne.

**Next Activity:** Await Court's decision.

**Time:** 11.5 hours

**Costs:** 0.00

**Hardin, Michelle v. Monroe County** **CA K 99-1046**  
**Circuit Court 16<sup>th</sup>** **Judge: Miller** **Date Filed: 9/3/99**

Appeal of code enforcement decision.

**Growth Management/Code Enforcement**

**Current Status:** CAY motion to replace Derek Howard as counsel pending.

**Next Activity:** Status review on pending motions.

**M&H Billing to date:** \$10,241.57 thru 8/31/05.

**CAY Time:** 0.5

#### **POTENTIAL CASES THAT HAVE NOT YET BEEN FILED**

**Good, Lloyd v. Monroe County** **CAK-05-TBA**  
**Circuit Court (16<sup>th</sup>)** **Judge:** **Date Filed:**

Bert J. Harris Act claim regarding two parcels of property owned by Lloyd Good.

**Growth Management/Planning**

**Current Status:** Settlement discussions underway.

**Next Activity:** None. Stayed during Good's application for major conditional use.

**Time:** 8.6 hours

**Costs:** \$5.56

**Hamelton, Charles v. KWRU & Monroe County** **CA K 04-740**

**Circuit Court (16<sup>th</sup>) Judge: Miller Date Filed: 7/6/04**

Potential personal injury claim by scooter accident victim and/or utility seeking damages from the County. Handled jointly with Johnson, Anselmo.

**Public Works/Roads and Bridges/Risk Management**

**Current Status:** County not a party at this time.

**Next Activity:** 11/18/05 County to produce documents to DFs.

**Fees Billed to Date:** 0.00

**Costs:** 0.00

**CAY Time:** 6.7

**Harum, James v. Monroe County, DOH, & Z. Krstic** **CAP-05-TBA**

**Circuit Court 16<sup>th</sup> Judge: Date Filed:**

Threatened action to compel County to prosecute code enforcement violation.

**Growth Management/Code Enforcement**

**Current Status:** Underlying code case held 5/26/05, mitigation plan in effect.

**Next Activity:** Move to dismiss and for sanctions if filed since w/o merit.

**Time:** 2.4 hours

**Costs:** 0.00

**Monroe County v. Jean M. Louis & Itnor Corp.** **CAK-05-TBA**

**Circuit Court 16<sup>th</sup> Judge: TBA Date Filed:**

Code fine collection action authorized by BOCC on 10/17/04. \$34,200.00.

**Growth Management/Code Enforcement** **PJM**

**Current Status:** Owners not complying with settlement agreement approved by BOCC on 4/20/05.

**Next Activity:** File foreclosure action if not resolved.

**Time:** 1.5 hours

**Costs:** 0.00

**Monroe County v. Blair & Althea Mooney** **CAK-05-TBA**

**Circuit Court 16<sup>th</sup> Judge: TBA Date Filed:**

Code lien collection action authorized by BOCC on 10/17/04. \$146,100.00.

**Growth Management/Code Enforcement** **PJM**

**Current Status:** Fine of \$7,305.00 paid.

**Next Activity:** Finalize settlement agreement.

**Time:** .5 hours

**Costs:** 0.00

**State of Florida v. Monroe County** **TBA**  
**TBA** **Judge: TBA** **Date Filed: n/a**  
Threatened action by AG's Medicaid Fraud unit regarding alleged over billings for ambulance services. **Public Safety/Fire Rescue**

**Current Status:** Waiting for AG's office to set up conference.

**Next Activity:** Settlement conference with State.

**Time:** 9.2 hours **Costs:** 0.00

#### **CASES BEING LITIGATED BY OUTSIDE COUNSEL**

**Ferencik, Libanoff, Brandt, Bustamante and Williams, P.A.**

**Monroe County v. Bender & Associates, et al** **CAK-03-915**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 8/4/03**  
Breach of contract and negligent misrepresentation action arising from the defective windows in the Gato building.  
**Engineering/Construction Management**

**Current Status:** Discovery ongoing.

**Next Activity:** Discovery ongoing.

**Fees billed to date:** \$62,442.25 **Costs:** \$6,838.29

**Monroe County v. Lodge Construction, et al** **CAK-00-617**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 5/11/00**  
Suit filed against general contractor Lodge Construction & its surety for breach of contract to build Gato Building.  
**Engineering/Construction Management**

**Current Status:** Reserved on appeal November 24, 2004. New trial granted. Mandate issued 2/16/05.

**Next Activity:** Set for trial.

**Fees billed to date:** \$298,015.25 **Costs:** \$71,523.31

**Johnson, Anselmo, Murdoch, Burke, Piper, & McDuff, P.A.**

**Bauknight, Skaggs & Rockett v. Monroe County** **CAP-04-451**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 9/24/04**  
Inverse condemnation/takings case filed by Jimmy & Nancy Bauknight, Teague Skaggs, & Kathleen Rockett for three lots on Big Pine Key. Mayor served 10/4/4.  
**Growth Management/Planning**

**Current Status:** Discovery.

**Next Activity:** Discovery.

**Fees billed to date:** \$832.24 **Costs:** 0.00

**Bauknight, Skaggs & Rockett v. Monroe County** **04-CV-10105**  
**U.S. D.C. S.Fla.** **Judge: Moore** **Date Filed: 11/1/04**  
Inverse condemnation/takings case by owners of 3 Big Pine lots.  
**Growth Management/Planning**

**Current Status:** Federal Court remanded to State Court. Attorney's fee motion appealed to 11<sup>th</sup> Circuit.

**Next Activity:** None.

**Fees billed to date:** None **Costs:** 0.00

**Bauknight, et al. v. Monroe County** **05-10868-F**  
**11<sup>th</sup> Cir. Ct. of Appeals** **Judge: TBA** **Date Filed: 2/11/05**  
Appeal of denial of attorney's fees motion filed against the County by takings case plaintiffs. County had removed the case to Federal Court; plaintiffs sought remand and attorneys fees. Case was remanded to state court but fees denied. Plaintiffs are seeking between \$15,000 and \$18,000 in fees.  
**Growth Management/Planning**

**Current Status:** Briefs completed.

**Next Activity:** Oral Argument 12/9/05 in Miami, 10:30 a.m.

**Fees billed to date:** None. **Costs:** 0.00

**Florida Key Deer v. Michael Brown & Gale Norton 90-10037-CIV-Moore**

**U.S. Dist. Ct., SD Fla. Judge: Moore Date Filed: 4/2/90**

Endangered Species Act case that resulted in permanent injunction barring FEMA from backing flood insurance for 49,000 parcels in County.

**Growth Management/Planning**

**Current Status:** Court extended appellate deadline to 12/15/05 to give time to rule on County's motion to intervene.

**Next Activity:** Negotiating partial settlement, ruling on intervention.

**Billing to Date:** none **Costs:** 0.00  
**CAY Time:** 13.5

**Florida Key Deer, et al v. Gale Norton (Sec. of Interior) 05-10063-CIV-KING**

**U.S.D.C. S.D.Fla. Judge: King Date Filed: 6/15/05**

Endangered Species Act challenge to Fish & Wildlife Service's review of County's application to construct park on Big Pine Key.

**Engineering/Construction Management**

**Current Status:** Case stayed while F&WS revises biological opinion.

**Next Activity:** Stayed until January 2006.

**Fees billed to date:** \$612.50 **Costs:** 0.00  
**CAY Time:** 6.3

**FKCC & Last Stand v. FL Admin. Comm., Monroe County DOAH 04-2756**

**DOAH Judge: Carolyn Holifield Date Filed: 08/05/04**

Administrative Rule challenge to partnership agreement with State.

**Growth Management/Planning**

**Current Status:** Final Order in County's favor issued 6/29/05.

**Next Activity:** None pending appeal.

**Fees billed to date:** \$59,464.92 **Costs:** 0.00  
**CAY Time:** 190.1 hours

**FKCC & Last Stand v. FL Admin. Comm., Monroe County, et al** 3D05-1800  
**Third DCA** **Judges: TBA** **Date Filed: 7/28/05**  
Appeal of ALJ's decision denying rule challenge in DOAH 04-2756.

**Current Status:** Appellant's brief filed.

**Next Activity:** County & DCA's brief due 12/15/05.

**Fees billed to date: none**

**CAY Time:** 0.5 hours **Costs:** 0.00

**Hardee, Evelyn v. Monroe County** **CAP-05-255**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 6/3/05**  
Tort action arising from alleged fall at PK Court house.  
**Risk Management/Public Works**

**Current Status:** Discovery.

**Next Activity:** Discovery motion phone hearing 11/16/05.

**Fees billed to date:** \$660.20 **Costs:** 0.00  
**CAY Time:** 2.4 hours

**Kessler, Stuart v. Monroe County & Tom Willi** **CA K 05-1006**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 10/11/2005**  
Complaint for injunctive relief and damages under Whistle-Blower Act, Civil Rights Act, defamation and interference with business relationship.  
**Personnel/Risk Management**

**Current Status:** Ct. denied temporary reinstatement on 10/31/05. Motion to Dismiss pending.

**Next Activity:** Hearing on Motion to Dismiss, to be set.

**Billing to date:** 0.00  
**CAY Time:** 23.4 **Costs:** 0.00

**Neuman, Kenneth v. Monroe County** **CAK-04-663**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/21/04**

Action for damages and to compel County to issue building permits.

**Growth Management/Planning** CAY co-counsel.

**Current Status:** Discovery.

**Next Activity:** Deposition of 11/2/05 to be reset.

**Fees billed to date:** \$2,326.92 **Costs:** 0.00

**CAY Time:** 5.8 hours

**Riverview Consultants, Inc. v. Monroe County** **CAK-05-373**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 4/13/05**

Tortious interference with contract case. League of City's carrier counsel.

**Risk Management/Airport/MCSO** **PJM**

**Current Status:** Pleadings complete.

**Next Activity:** Motions and discovery.

**Fees billed to date:** \$743.86 **Costs:** 0.00

**CAY Time:** 4.0 hours

**Morgan & Hendrick**

**Ambrose, Thora et al v. Monroe County** **CA P 97-636**

**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 12/11/97**

Declaratory Judgment action claiming vested rights due to subdivision plats.

Subsequent appeal of summary judgment order reversed and remanded.

**Growth Management/Planning**

**Current Status:** Plaintiff's voluntarily dismissed without prejudice 9/14/05.

**Next Activity:** None. Wait to see if refile.

**Billing to date:** \$30,960.98 as of 7/31/05.



**Emmert, Helen & Greg v. Monroe County** **CA P 02-520**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 10/2/02**  
Inverse condemnation and vested rights action.  
**Growth Management/Planning**

**Current Status:** Court denies PL's partial summary judgment motion.

**Next Activity:** Trial December 19, 2005.

**Billing to date:** \$90,727.95 as of August 31, 2005.

**Galleon Bay v. Monroe County v. State of Florida** **CA K 02-595**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 5/21/02**  
Inverse condemnation and vested rights action.  
**Growth Management/Planning**

**Current Status:** Summary judgment motions pending.

**Next Activity:** Motions hearing 10/24/05 to be reset.

**M & H Billing to date:** \$209,495.65 thru 8/31/05.

**\*\*\* Robert Freilich is serving as co-counsel**

**Paul Hastings Billing to date:** to be provided.

**Good, Lloyd v. Monroe County** **CA K 01-977**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 8/9/01**  
Inverse condemnation action based on NROGO and declaratory judgment that owner be awarded permits for properties.  
**Growth Management/Planning**

**Current Status:** Plaintiff motion to amend complaint filed.

**Next Activity:** Respond to amended complaint.

**Billing to date:** \$16,378.03 as of 8/31/05.  
**CAY Time:** 2.5

**I.C. & E. v. Monroe County** **01-CV-10105**

**U.S. Dist. Ct.** **Judge: King** **Date Filed: 10/4/01**

Declaratory judgment action regarding wireless tower moratoria.

**Growth Management/Planning**

**Current Status:** 11<sup>th</sup> Circuit directed District Court to dismiss case.

**Next Activity:** Awaiting order of dismissal.

**Billing to date:** \$18,966.92 as of 8/31/05.

**Johnson, Lloyd v. Monroe County** **CA K 02-1248**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 10/30/02**

Writ of Mandamus challenging Planning Director's determination that boundary determination by alleged error requires zoning map amendment.

**Growth Management/Planning**

**Current Status:** Agreement reached.

**Next Activity:** Proposed final judgment pending.

**Billing to date:** \$2,219.62 as of 8/31/05.

**Kalan, Suzanne v. Monroe County** **CA P 03-155**

**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 3/11/03**

Inverse condemnation action.

**Growth Management/Code Enforcement**

**Current Status:** Held in abeyance pending BUD hearing.

**Next Activity:** none.

**Billing to date:** \$2,855.77 as of 8/31/05.

**Neumont, Elizabeth et al. v. Monroe County** **99-10054-CV**

**U.S. Dist. Ct., S.D.Fla.** **Judge: Paine** **Date Filed: 5/21/99**

Cass action challenging enactment of vacation rental ordinance.

**Growth Management/Planning**

**Current Status:** Briefs completed.

**Next Activity:** None pending appeal.

**Billing to date:** \$123,563.24

**Neumont, Elizabeth et al. v. Monroe County** **04-13610-X**  
**11<sup>th</sup> Circuit Court of Appeals** **Judges: TBA** **Date Filed: 7/15/04**  
Appeal of 99-10054-CV above.  
**Growth Management/Planning**

**Current Status:** Briefs completed.

**Next Activity:** Oral argument to be rescheduled to 11/18/05.

**Billing to date:** \$123,565.49 as of 8/31/05.

**O'Daniel, John & Theresa Hill v. Monroe County** **CA P 02-141**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 3/13/02**  
Appeal of code enforcement action and vested rights claim.  
**Growth Management/Code Enforcement/Planning**

**Current Status:** Complete, on appeal.

**Next Activity:** None pending appeal.

**Billing to date:** \$40,710.63 as of 8/31/05.

**O'Daniel & Hill v. Monroe County** **3D-05-583**  
**Third DCA** **Judges: TBA** **Date Filed: 3/18/05**  
Appeal of circuit court decision in CA P 02-141.  
**Growth Management/Code Enforcement/Planning**

**Current Status:** Oral argument held 10/19/05.

**Next Activity:** Await decision of Court.

**Billing to date:** See previous case.

**Sierra Club, et al v. DCA, Miami Dade & City of Homestead** **03-150-GM**  
**DOAH** **Judge: Maloney** **Date Filed: 1/17/03**  
Court intervened in administrative challenge to amendment of Miami-Dade's  
comp. plan redesignating Krome Avenue to a major roadway.  
**Growth Management/Planning**

**Current Status:** Final hearing suspended by Hurricane Rita.

**Next Activity:** To resume at a date to be announced.

**Billing to date:** None, *pro bono*.

**Paul, Hastings (Bob Freilich)  
White & Smith (Tyson Smith)**

**Collins, Thomas, et al v. Monroe County** **CAM-04-379**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 11/22/04**  
Takings action brought by 11 groups of plaintiffs.  
**Growth Management/Planning**

**Current Status:** Discovery ongoing.

**Next Activity:** Motions hearing 11/28/05; Motion to continue trial 11/29/05 pending.

**Total Fees billed to date:** \$554,169.12  
**CAY Time:** 109.7 hours **Costs:** \$56,194.21

**See also Galleon Bay v. Monroe County – Morgan & Hendrick.**

**Purdy, Jolly & Giuffreda, P.A.**

**Evans, Brian v. Monroe County** **04-CIV-10033-JLK**  
**U.S.Dist.,S.D.Fla. (Miami) Judge: King** **Date Filed: 5/6/04**  
Civil action against the County, and others, arising from actions of Sheriff's office in publicizing the rescission of a warrant it had obtained for his arrest. **MCSO**

**Current Status:** Award to County & Sheriff of \$4,579.00 in attorney's fees against Evans for filing frivolous suit affirmed by 11<sup>th</sup> Circuit on 9/20/05.

**Next Activity:** Collection.

**Fees billed to date:** None **Costs:** 0.00  
**CAY Time:** 9.5 hours

**Evans, Brian v. MCSO, Monroe County, et al** **05-10077-B**  
**11th Circuit Judges: Edmondson, Tjoflat & Dubina** **Date Filed: 1/5/05**  
Appeal of award of attorney's fees against Evans in 04-CIV-10033.  
**MCSO**

**Current Status:** Fee award affirmed 9/20/05; Mandate issued 10/19/05.

**Next Activity:** None. Decision becomes final 1/9/06.

**Fees billed to date:** None **Costs:** 0.00

**Evans, Brian v. Monroe County, et al** **CIV S 04-1042 LRH**  
**U.S.D.C. Nevada** **Judge: Jones** **Date Filed: 7/28/04**  
Same allegations as Florida case 04-CIV-10033 that were dismissed. **MCSO**

**Current Status:** Final Judgment entered 9/15/05.

**Next Activity:** None unless files cert. petition (12/15/05 close).

**Fees billed to date:** None **Costs:** 0.00

**Evans, Brian v. MCSO, Monroe County, et al** **O4-17429**  
**9<sup>th</sup> Circuit** **Judges: O'Scannlain, Callahan & Beach** **Date Filed: 12/09/04**  
Appeal of Nevada Court's dismissal of suit in CIV S 04-1042 LRH. **MCSO**

**Current Status:** 9/7/5, Mandate issued.

**Next Activity:** None. Becomes final 12/15/05.

**Fees billed to date:** None **Costs:** 0.00

**Evans, Brian v. KW Citizen, Monroe County, et al** **CV S 04-1742-KJD-LRL**  
**U.S.D.C. Nevada** **Judge: Dawson** **Date Filed: 1/6/05**  
Defamation suit over alleged misstatements by Mark Willis in the Citizen. **MCSO**

**Current Status:** Evans dismissed case on 2/11/05; threatened to refile.

**Next Activity:** Await service.

**Fees billed to date:** None **Costs:** 0.00

#### **The Smith Law Firm**

**Monroe County v. Post Buckley, Schuh, and Jernigan** **CAK-95-402**  
**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 3/30/95**  
Malpractice claim against the County's former engineering firm for miscalculation of bonds necessary to finance improvements to Card Sound Road.  
**Engineering**

**Current Status:** Defense verdict 6/14/05.

**Next Activity:** Finalize attorney's fees.

**Fees billed to date:** \$630,311.78 **Costs:** 0.00

**Monroe County v. Post Buckley, Schuh, and Jernigan** **3D05-1822**

**Third DCA** **Judges: TBA** **Date Filed: 8/1/05.**

Appeal of judgment in the above case.

**Engineering**

**Current Status:** Organizing record.

**Next Activity:** County's brief deadline extended to 12/15/05.

**Fees billed to date:** none

**Costs:** 0.00

**Vernis & Bowling of the Florida Keys, P.A.**

**GAP Properties of SW Florida-I, Inc. v. Monroe County** **CAK-04-1321**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/10/04**

Cert. review of action involving failure to obtain plat approval of dock subdivision and an improper change of use without a major or minor conditional use permit.

**Growth Management/Planning**

**Current Status:** Certiorari denied, rehearing motion denied.

**Next Activity:** Order becomes final 10/14/05.

**Fees billed to date:** \$26,875.00

**Costs:** \$306.43

**Key Tex S. D. Condo Assoc. v. Monroe County & T. McGarry** **CAK-04-224**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 3/2/04**

Action to prevent County from denying permits because of ownership conversion to condominiums and compel County to accept permit applications that have been rejected MCC 9.5-49.

**Growth Management/Planning**

**Current Status:** Third Amended petition pending.

**Next Activity:** Respond to Third Amended petition.

**Fees billed to date:** \$32,290.50

**Costs:** \$2,540.84

**Monroe County v. Mary Boza** **CAK-03-1508**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

**Growth Management/Code Enforcement**

**Current Status:** Settled. Lien release issued.

**Next Activity:** File satisfaction of judgment, pay V&B's bill.

**Fees billed to date:** \$7,300.00 **Costs:** 0.00

**CAY Time:** 6.0 hours

**Monroe County v. Alain Y. Depierreffe** **CAK-03-1504**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

**Growth Management/Code Enforcement**

**Current Status:** Final default judgment entered on 6/21/05 for \$144,505.03.

**Next Activity:** Auction to be scheduled.

**Fees billed to date:** None **Costs:** 0.00

**Monroe County v. Alain Y. Depierreffe** **CAK-03-1507**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC on 4/18/03.

**Growth Management/Code Enforcement**

**Current Status:** Final default judgment entered on 6/21/05 for \$616,555.03.

**Next Activity:** Auction to be scheduled.

**Fees billed to date:** None **Costs:** 0.00

**CAY Time:** 3.5 hours (both cases)

**Monroe County v. Mary Ellen Lloyd** **CAM-03-362**

**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 12/19/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

The total amount of the lien owed to the County is \$143,500.00.

**Growth Management/Code Enforcement**

**Current Status:** Compliance achieved 8/31/04.

**Next Activity:** Settlement offer to be presented at October BOCC meeting.

**Fees billed to date:** None **Costs:** 0.00

**CAY Time:** 2.3 hours

**Monroe County v. James Messera, et al** **CAK-03-1509**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

**Growth Management/Code Enforcement**

**Current Status:** Owners working on compliance.

**Next Activity:** Settlement discussions ongoing.

**Fees billed to date:** None

**Costs:** 0.00

**Monroe County v. Joe Posada, III** **CAK-03-1503**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action authorized by the BOCC 4/18/03.

**Growth Management/Code Enforcement**

**Current Status:** Settlement unproductive.

**Next Activity:** Proceed with foreclosure.

**Fees billed to date:** None

**Costs:** 0.00

**CAY Time:** 3.5 hours

**Monroe County v. Virginia Sawyer & Tony Welters** **CAK-03-1505**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

**Growth Management/Code Enforcement**

**Current Status:** DFs answered.

**Next Activity:** Discovery.

**Fees billed to date:** None

**Costs:** 0.00

**Monroe County v. Virginia Sawyer** **CAK-03-1506**

**Circuit Court 16<sup>th</sup>** **Judge: Payne** **Date Filed: 12/18/03**

Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.

**Growth Management/Code Enforcement**

**Current Status:** DFs answered.

**Next Activity:** Discovery.

**Fees billed to date:** None

**Costs:** 0.00



**Monroe County v. Louis Welters** **CAK-04-639**  
**Circuit Court 16<sup>th</sup>** **Judge: Jones** **Date Filed: 6/14/04**  
Code enforcement foreclosure action that was authorized by the BOCC 7/15/03.  
**Growth Management/Code Enforcement**

**Current Status:** DF answered.

**Next Activity:** Discovery.

**Fees billed to date:** None **Costs:** 0.00

**Osborn, Jeff v. Monroe County** **CAP-04-564**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 11/24/04**  
1 of 2 certiorari petitions challenging development approval of Northstar project.  
**Growth Management/Planning**

**Current Status:** Pleadings complete.

**Next Activity:** Oral argument set for 9/29/05.

**Fees billed to date:** \$14,039.50 **Costs:** \$261.49

**Osborn, Jeff v. Monroe County** **CAP-04-565**  
**Circuit Court 16<sup>th</sup>** **Judge: Garcia** **Date Filed: 11/24/04**  
2 of 2 certiorari petitions challenging development approval of Northstar project.  
**Growth Management/Planning**

**Current Status:** Pleadings complete.

**Next Activity:** Oral argument set for 9/29/05.

**Fees billed to date:** \$3,920.50 **Costs:** \$146.93

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<sup>i</sup> Includes cases listed under outside counsel.

<sup>ii</sup> Article V issue, bankruptcy claim, and Fire Rescue.